

**RESOLUTION NO. 20201015-075**

**WHEREAS**, on September 17, 2020, the City Council adopted Resolution No. 20200917-062, directing the City Manager to explore and identify ways to support and to increase the survivability of those most vulnerable in Austin's hardest hit sectors: childcare, music and arts venues, restaurants and bars; and

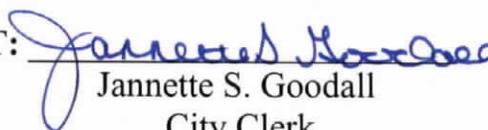
**WHEREAS**, on October 1, 2020, the City Council adopted Ordinance No. 20200901-052, amending certain Fiscal Year 2020-2021 department budgets to fund the Save Austin's Vital Economic Sectors (SAVES) Fund to support COVID-19 emergency relief; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Council approves the program guidelines, in Attachment A, for the Austin Legacy Business Relief Grant, a \$5,000,000 program that will help support Austin-based iconic live music venues, restaurants, and arts organizations impacted by the COVID-19 pandemic.

**ADOPTED:** October 15, 2020

**ATTEST:**

  
Jannette S. Goodall  
City Clerk

**City of Austin – Economic Development  
Austin Legacy Business Relief Grant  
Program Guidelines**

### **1.0 Purpose**

The Purpose of the Program is to ensure the long-term survivability of Legacy Businesses and industry in the City, it is not intended to only provide for the short term ability of Legacy Businesses to survive the pandemic, and is intended to benefit Legacy Businesses that:

- Have been closed or operated with significantly-reduced operations (operating below 75 percent of operational capacity compared to this time in 2019) since some point in March 2020, because of the city's response to COVID-19;
- The business faces a substantial likelihood of closing permanently absent assistance;
- There is a very low likelihood of a similar business re-opening in the same or nearby location due to increased rents or other market factors;
- The business or industry faces uniquely difficult challenges pivoting to alternative operating models for generating revenue sufficient for survival under extended public health emergency orders;
- Assistance provided will significantly contribute to helping reasonably ensure that the business will not fail for at least a sufficient period of time to help provide a realistic path to recovery and sustainability;
- Their failure and loss would have the greatest detrimental impact on the city's civic infrastructure, economic recovery and preservation of its unique culture, character and brand;
- Were adversely impacted by the cancellation of South by Southwest and subsequent events;
- Have been impacted by other COVID-19 related disruptions; and/or
- Have virus mitigation and protective equipment needs.

### **1.1 Community Benefits**

The community benefits to be achieved through this program include not only helping the business, but also helping that industry's and other industries' survival, job creation and retention, post-pandemic economic recovery, maintaining a strong tax base, maintaining civic infrastructure, and preserving the City of Austin's unique culture, character, heritage and brand. Awarded Legacy Businesses will be provided the necessary support for ensuring success, since this investment will germinate broader economic recovery and job growth in Austin, including but not limited to:

- Preventing iconic Austin businesses, that attract in-state and out-of-state tourists, from closing;
- Improving the quality of life for residents and visitors;
- Spurring economic development opportunities for small business;
- Supporting workers in the targeted businesses and industries that will, in turn, be able to sustain other businesses and industries (including at staging companies, artist service organizations, studio spaces, etc.) that also contribute to the unique character, brand and culture of our city;

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- Helping people with low and middle incomes;
- Expanding local audience outreach through collaboration and partnerships;
- Innovating safe live music guidelines for workforce development and growth; and
- Promoting Austin's live music sector and other music industries to tourists and global audiences.

## 2.0 Program Fund and Fund Source

Funding in the amount of \$5,000,000 is available in the Fiscal Year 2020-2021 General Fund Emergency Reserve Fund. Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds are not used for this program.

## 3.0 Eligibility Criteria

Businesses must meet the following criteria to be eligible for this grant program:

- Business operates in one of the following industry sectors:
  - Arts venues
  - Live performance and music venues
  - Restaurants and bars
- Business operates from a publicly-facing, physical building
- Business has operated for 20 years in an area that is currently in a City of Austin Council District
- Have incurred or plan to incur COVID-19 mitigation and protective equipment expenses.
- Business may have changed locations during its twenty (20) years but must have been located and/or headquartered in an area that is currently in a City of Austin Council District during all twenty (20) years
- Business has headquarters and/or its first location in an area that is currently in a City of Austin Council District
- Business contributes to Austin's civic infrastructure and helps to define the City's character and brand
- Business demonstrates a substantial likelihood of closing permanently absent assistance
- Business demonstrates that there is a low likelihood of a similar business reopening in the same or nearby location due to increased rents or other market factors
- Business demonstrates challenges pivoting to alternative operating models for generating revenues sufficient for survival under extended COVID-19 public health orders
- Business demonstrates that assistance through this program reasonably ensures the business will not fail
- Business is committed to maintaining the business' unique contribution to the City's special culture and brand
- Business is current on all local and state license requirements
- Business meets or exceeds the City of Austin's recommended COVID-19 safety guidelines, which can be found online at [www.austintexas.gov/covid19](http://www.austintexas.gov/covid19)

### 3.1 Live Music Venue Definition

For the purposes of this grant program, “Live Music Venue” is defined as an establishment where live music programming is the principal function of the business and/or the business is a live music destination, and where the venue clearly establishes the ability of an artist to receive payment for work by percentage of sales, guarantee or other mutually beneficial formal agreement for every performance. A live music venue is a destination for live music consumers, and/or its music programming and is the primary driver of its business as indicated by the presence of at least five (5) of the following:

- Defined performance and audience space;
- Mixing desk, public address (PA) system, and lighting rig;
- Back line;
- At least two of the following: (i) sound engineer, (ii) booker, (iii) promoter, (iv) stage manager, or (v) security personnel;
- Charges cover charge to some music performance through ticketing or front door entrance fee;
- Markets specific acts through show listings in printed and electronic publications;
- Hours of operation coincide with performance times; or
- Programs live music at least five nights a week.

### 3.2 Ineligibility Criteria

Businesses are ineligible for this grant program if any of the following apply:

- Businesses that do not meet the eligibility requirements
- Businesses that are closed permanently
- Businesses receiving assistance through another Save Austin’s Vital Economic Sectors (SAVES) Fund grant program.
- Businesses debarred from contracting with the federal government (disclosure)
- Businesses without an Employer Identification Number
- Businesses engaged in multi-level marketing
- Businesses that derive more than a third of their annual revenue from gambling activities
- Businesses whose service to customers includes adult entertainment
- Businesses whose primary activities involve lobbying
- Governmental entities
- Non-Profit entities
- Businesses not able to meet all eligibility criteria
- Full time, permanent City of Austin employees

### 3.3 Previous COVID-19 Grant or Loan Recipients

Businesses receiving assistance through another SAVES Fund grant program are not eligible for this program.

### 3.4 Applicants with Multiple Sites

Business owners with multiple eligible operations may only apply for the fund once.

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### **3.5 Case Management and Professional and Technical Support**

Eligible Applicants shall be provided access to up to twenty (20) hours of attorney and/or certified public accountant services, as part of initial case management assistance part of the application process, to help those Eligible Applicants further develop and refine their final application to demonstrate assistance received will best meet the purposes of this program, as set out in Section 1.0, above. These attorneys and CPAs will come from a pool of experts made available by the City.

#### **3.51 Limitation on Number of Eligible Applicants**

If the number of Eligible Applicants exceeds 50, then the City may narrow the eligibility criteria, consistent with the intent and purpose of this program.

#### **3.52 Interim and Emergency Support Necessary to Participate in the Application Process**

Eligible Applicants that are facing imminent failure and will not otherwise be able to participate in the development and refinement of their application, will be entitled to request that minimum financial assistance, not to exceed \$20,000, necessary to survive long enough to participate in the application process (meaning there are no non-monetary steps or actions that can reasonably be taken to otherwise survive to participate in the application process). This is an emergency relief function to provide funding and legal and financial expertise to businesses that need short-term emergency relief to enable the businesses to stay in business while applying for longer term relief funds.

### **3.6 Final Application and Awarding of Grants**

Grants shall be awarded based on the final applications submitted by the Eligible Applicants in consultation with the case management assistance they receive. Awards shall be made to best achieve the purpose of this program and shall, when appropriate, try to leverage the funding available so that the resource can go further. It is recognized that there will be some subjectivity involved in awarding grants.

#### **3.61 Types of Grants Awarded**

Award of grants may take different forms, to achieve different purposes, and may be in different amounts as may best determined to facilitate the purposes of this program as set out in Section 1.0, above. The City may delegate to an economic development corporation the awarding of grants. Grants awarded in this program may be combined with, or used to help leverage, other public and third party resources and participation. If an economic development corporation is used, such corporation may combine the resources here provided with separate or third party resources and it may participate as an investor, landlord or otherwise, to best maximize the purposes, intent and City provided funding associated with this program.

### **3.7 Commercial Tenants**

Applicants who rent or lease their property should attempt, as part of the case management and application process, to demonstrate a commitment from the property owner to enter into a more

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favorable and/or more long-term rent or lease agreement or sale agreement with the applicant. If a property owner is unwilling to enter into such an agreement, the applicant may still apply with the submittal of documents demonstrating a good faith effort to work with their property owner to negotiate a more favorable agreement. Whether or not such an agreement can be reached is a factor that can be considered in awarding final grants and such impacts the consideration of the purposes and intent of this program, as set out in Section 1.0, above.

#### **4.0 Equity Consideration**

The City of Austin is focusing on undoing the policies and practices that have led to historic systemic inequities with special attention paid to business ownership, employment, artist of color and genre development, and audience outreach and development. To address these systemic inequities, applicants are required to submit a detailed “Live Music Venue Equity Strategic Plan.”

Awardees will be provided training and support to ensure these plans are actionable and implemented within one year of the grant award. These opportunities will be created and administered in collaboration with City of Austin departments, local music venues and businesses operated by people of color, and EDD’s workforce development partners.

#### **4.1 Workers Rights and Labor Issues**

Applicant will adhere to worker safety protections and workers’ rights as applicable to the facility and business operations in accordance with local, state, and federal laws. The City may find a breach of the program guidelines if a program participant is found to have violated workers’ rights for a period of one year from grant award, either because of a substantiated finding as determined by the City and is not cured by the participant, of unfair labor practices, worker safety violations, violation of anti-discrimination laws, or violation of other applicable worker rights laws.

#### **4.2 Anti-Discrimination Agreement**

Applicants agree to comply with policies to support anti-harassment and anti-discrimination practices for business operations and work environment in the City of Austin. Applicants receiving grant awards shall be required to sign and comply with a City-provided form specifying non-discrimination and anti-harassment policies and practices. Evidence of noncompliance may be grounds for terminating a grant award and demanding repayment. At its discretion, the City may work with the recipient to develop a plan and timeline for becoming compliant.

#### **5.0 Eligible Expenses**

Eligible expenses that will be used to calculate the award amount include:

- Rent or mortgage for commercial property, including triple net leases
- Utilities
- Payroll, payroll taxes and employee benefit programs such as health and life insurance
- Technology and software
- Sanitation/cleaning services or supplies
- Personal protective equipment (PPE) purchases/rentals
- Business and commercial property insurance
- Permits and regulatory fees

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- Maintenance and repair
- Operating or facility capital
- Assistance with the purchase of a venue
- Professional services
- Property taxes

The following types of expenses are not eligible for these grant funds:

- Costs that have been paid or will be paid by other COVID-19 grants/loans

### **6.0 Grant Award**

Applicants may apply for funding up to \$40,000 per month for up to six months. Total grant awards per applicant will not exceed \$160,000.

A larger grant award may be considered if it is determined to be necessary and advisable:

- For an awardee, the Austin Economic Development Organization, or other similar cultural trust organization, or third party which will then lease to the awardee, to purchase the awardees' location or otherwise to achieve a purpose that allows for greater long term business sustainability, or
- To sufficiently leverage an opportunity to ensure business survival and long term sustainability

If, at any point it is determined that long term survival of an awarded business is not viable, termination of the grant may be considered.

The City of Austin anticipates awarding \$4,500,000 to \$5,000,000 to eligible program applicants. The total amount dispersed will depend on whether the City of Austin contracts with a third-party to administer the grant program and/or whether the administrative and case management expenses are funded from other than this fund. Administrative fees for third-party administrators can be as high as 10 percent of the total program fund.

### **7.0 Funding Disbursement**

The City of Austin or a third-party program administrator will make every effort to distribute funding as soon as possible following the rapid completion of the final application process, including the case management assistance.

### **8.0 Public Disclosure**

All information submitted by applicants as part of the grant application and administration are subject to the Texas Public Information Act.